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MICHELLE O'HANLON

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MICHELE O'HANLON,)	Case No.: 5:15-cv-02603
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	(Unlawful Debt Collection Practices)
)	
PROGRESSIVE FINANCE)	
HOLDINGS, LLC)	
)	
Defendant.)	

MICHELLE O'HANLON (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against PROGRESSIVE FINANCE HOLDINGS, LLC (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained therein.
4. Defendant conducts business and is principally located in the State of California thereby establishing personal jurisdiction.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in San Jose, Santa Clara County, California.
7. Defendant is a business entity with offices located throughout the country, including an office in Draper, Utah.
8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

9. In or around January, 2015, Defendant began constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
10. Upon information and belief, Plaintiff does not owe the debt Defendant is attempting to collect.
11. Defendant places collection calls from telephone numbers, including, but not limited to, 650-810-9235.
12. Defendant places collection calls to Plaintiff's cellular telephone at phone number 408-551-83XX.
13. Based upon the timing and frequency of Defendant's calls, as well as its prior business practices, each of Defendant's collection calls were placed using an automatic telephone dialing system.

1 14. Plaintiff does not have any business dealings with Defendant, did not at any time provide
2 Defendant with her cellular telephone number, nor did Plaintiff at any time provide
3 consent for Defendant to place calls to her cellular telephone using an automated
4 telephone dialing system.

5 15. On several occasions, including on or around March 11, 2015, Plaintiff spoke to
6 Defendant, informed Defendant that she was not the individual Defendant was
7 attempting to contact, and requested that Defendant cease placing collection calls to her
8 cellular telephone.

9 16. Despite Plaintiff's insistence that Defendant is calling the wrong person, Defendant
10 continued to place at least ninety-two (92) automated collection calls to Plaintiff without
11 Plaintiff's consent in an approximate four-month period.

12 **COUNT I**
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT

13 17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
14 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every
15 violation pursuant to 47 U.S.C. § 227(b)(3)(B).

16 18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
17 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
18 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47
19 U.S.C. § 227(b)(3)(C).

20 Wherefore, Plaintiff, MICHELE O'HANLON respectfully requests judgment be entered
21 against Defendant, PROGRESSIVE FINANCE HOLDINGS, LLC for the following:

22 19. Statutory damages of \$500.00 for each and every negligent violation of the TCPA
23 pursuant to 47 U.S.C. § (b)(3)(B);

24 20. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of
25 the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

1 21. All court costs, witness fees and other fees incurred; and

2 22. Any other relief that this Honorable Court deems appropriate.

3 **COUNT II**
4 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
5 **PRACTICES ACT**

6 23. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as
7 the allegations in Count II of Plaintiff's Complaint.

8 24. Defendant violated the RFDCPA based on the following:

9 a. Defendant violated § 1788.11(d) of the RFDCPA by causing a telephone to ring
10 repeatedly or continuously to annoy the person called;

11 b. Defendant violated § 1788.11(e) of the RFDCPA by communicating with
12 Plaintiff with such frequency as to be unreasonable and to constitute a
13 harassment to Plaintiff.

14 c. Defendant violated § 1788.17 of the RFDCPA by failing to comply with the Fair
15 Debt Collection Practices, Act, 15 U.S.C. § 1692 *et seq.*, to wit:

16 1. Defendant violated §1692d of the FDCPA by engaging in conduct the
17 natural consequence of which is to harass, oppress, or abuse Plaintiff;

18 2. Defendant violated §1692d(6) of the FDCPA by causing a telephone to
19 ring repeatedly or continuously with intent to annoy, harass, or abuse
20 Plaintiff.

21 WHEREFORE, Plaintiff, MICHELE O'HANLON, respectfully requests judgment be
22 entered against Defendant, PROGRESSIVE FINANCE HOLDINGS, LLC for the following:

23 25. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection
24 Practices Act, Cal. Civ. Code §1788.30(b),

25 26. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
Practices Act, Cal. Civ Code § 1788.30(c), and

1 27. Any other relief that this Honorable Court deems appropriate.

2 RESPECTFULLY SUBMITTED,

3 DATED: June 11, 2015

KROHN & MOSS, LTD.

4
5 By: /s/Ryan Lee
6 Ryan Lee
7 Attorney for Plaintiff

8 **DEMAND FOR JURY TRIAL**

9 PLEASE TAKE NOTICE that Plaintiff, MICHELE O'HANLON, demands a jury trial in
10 this case.